

## ADJUDICATION MEMORANDUM #13

TO: Adjudication Staff

FROM: Carter Fritschle, Adjudication Section Manager *CA*

REVISED: May 16, 2016

RE: Claim Fees for Recently Adjudicated Water Rights

Idaho Code §42-1414 provides for fees for filing a notice of claim in adjudication proceedings commenced or enlarged on or after January 1, 1985. This language has been interpreted by IDWR as exempting certain claimants from paying a filing fee for notices of claims filed in the SRBA.

If the claimant is claiming a water right determined by a decree or judgment entered in prior adjudications listed below, the following special rules apply with regard to the payment of fees for filing notices of claims. (This includes permits listed in the director's report in those adjudications, even where the report said the permits were included for information purposes only or the permits remained subject to the statutory provisions applicable to permits.)

- Payette River Drainage Adjudication (Gem County Civil No. 3667)
- Lemhi River Drainage Adjudication (Lemhi County Civil No. 4948)
- Basin Creek Drainage Adjudication (Cassia County Civil No. 11125)
- Cougar Creek Adjudication (Kootenai County Civil No. 63035)
- Twin Lakes Adjudication (Kootenai County Civil No. 32572)
- Hayden Lake Adjudication (Kootenai County Civil Nos. 22418, 22419, 22420)
- Lewellen Creek Adjudication (Kootenai County Civil No. 39405)
- Blanchard Creek Adjudication (Bonner County Civil No. 12152)

If the claimant is claiming a water right the same as it was determined in the decree, or the same as it was described in a transfer approved or partially approved by IDWR after the right was decreed, then:

1. The claimant is exempt from the fee for filing a notice of claim, but will be subject to late fees for late-filed notices of claims.
2. Shortly after the mailing of the commencement notices in the affected counties, the claimant should have received a notice of claim form from IDWR in the mail with the water right already printed on the form as it was determined in the decree, or as it was described in a transfer approved or partially approved by IDWR after the right was decreed. Note: This procedure did not occur in the Coeur d'Alene-Spokane River Basin Adjudication.

If the claimant is claiming a water right differently than it was decreed, or differently than it was described in a transfer approved or partially approved by IDWR after the right was decreed, then the claimant is required to pay the fee for filing the notice of claim.

A claimant is not considered to be claiming a water right differently if the only item that is changed is the name, address, and phone number of the claimants. A claimant is also not considered to be claiming a water right differently if the only change is that the water right has been "partitioned by conveyance to" (legal term meaning divided between) different owners. For example, Water User A has a right to 80 inches of water for the irrigation of 80 acres, and then sells 40 acres to Claimant B and 40 acres to Claimant C. If Claimant B files a notice of claim to 40 inches, for 40 acres described as the place of use in the decree (or in an approved transfer), with the same point of diversion, etc., then Claimant B does not have to pay a fee for filing the notice of claim (but may be required to pay a late fee for a late filed claim). The same is true for Claimant C.

Late fees should be calculated based upon the filing fee that would apply if the claim were subject to filing fees. For example, the late fee for Claimant B would be \$50.00 (\$50.00 being greater than 15% of \$90.00).